

HOUSE BILL NO. 270

INTRODUCED BY LINDEEN, MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PRIMARY SECTOR BUSINESS WORKFORCE TRAINING PROGRAM; ~~MAKING THE PROGRAM PERMANENT~~; TRANSFERRING ADMINISTRATION OF THE PROGRAM FROM THE GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT TO THE DEPARTMENT OF COMMERCE; REVISING THE FUNDING MECHANISM; AMENDING SECTIONS 39-11-103, 39-11-201, AND 39-11-202, MCA, AND SECTION 10, CHAPTER 567, LAWS OF 2003; REPEALING SECTIONS 39-11-203 AND 39-11-204, MCA, ~~AND SECTION 10, CHAPTER 567, LAWS OF 2003~~; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-11-103, MCA, is amended to read:

"39-11-103. ~~(Temporary)~~ (TEMPORARY) Definitions. As used in this chapter, the following definitions apply:

(1) "Average weekly wage" has the meaning provided in 39-71-116.

(2) "Department" means the department of commerce established in 2-15-1801.

~~(2)~~(3) "Eligible training provider" means:

(a) a unit of the university system, as defined in 20-25-201;

(b) a community college district, as defined in 20-15-101;

(c) an accredited, tribally controlled community college located in the state of Montana; or

(d) an entity approved to provide workforce training that is included on the eligible training provider list.

~~(3)~~(4) "Eligible training provider list" means the list maintained by the department of labor and industry of those eligible training providers who may be used to provide workforce training under a grant authorized in 39-11-202.

~~(4)~~(5) "Employee" means the individual employed in a new job.

~~(5)~~(6) "Employer" means the individual, corporation, partnership, or association providing new jobs and entering into a grant contract.

~~(6)~~(7) "Full-time job" means a predominantly year-round position requiring an average of 35 hours of

1 work each week.

2 ~~(7)~~(8) (a) "New job" means a newly created full-time job in an eligible business.

3 (b) The term does not include:

4 (i) jobs for recalled employees returning to positions held previously, for replacement employees, or for
5 employees newly hired as a result of a labor dispute, part-time or seasonal jobs, or other jobs that previously
6 existed within the employment of the employer in the state; or

7 (ii) jobs created by an employer as the result of an acquisition of a Montana company or entity if those
8 jobs previously existed in the state of Montana in the acquired company or entity unless it is demonstrated that
9 the jobs:

10 (A) are substantially different as a result of the acquisition; and

11 (B) will require new training for the employee to meet new job requirements.

12 ~~(8) "New jobs credit" means the credit provided in 39-11-203.~~

13 ~~—— (9) "Office of economic development" means the office of economic development established in~~
14 ~~2-15-218.~~

15 ~~(10)~~(9) "Primary sector business" means an employer engaged in establishing or expanding operations
16 within Montana that through the employment of knowledge or labor adds value to a product, process, or export
17 service that results in the creation of new wealth and;

18 (a) for which at least 50% of the sales of the employer occur outside of Montana or;

19 (b) the employer is a manufacturing company with at least 50% of its sales to other Montana companies
20 that have 50% of their sales occurring outside of Montana; or

21 (c) the employer is a new business that provides a product or a service, as determined by the committee
22 provided for in 39-11-201, A PRODUCT OR A SERVICE that Montanans currently leave the state to purchase IS NOT
23 AVAILABLE IN MONTANA OR A SUBSTANTIALLY SIMILAR PRODUCT OR SERVICE THAT IS NOT AVAILABLE IN MONTANA,
24 RESULTING WHICH RESULTS IN STATE RESIDENTS LEAVING THE STATE TO PURCHASE THE PRODUCT OR SERVICE.

25 ~~(11)~~(10) "Primary sector business training program" or "program" means the grant provided to employers
26 for the purpose of working with eligible training providers to provide employees with education and training
27 required for jobs in new or expanding primary sector businesses in the state.

28 ~~(12)~~(11) (a) "Program costs" means all necessary and incidental costs of providing program services.

29 (b) The term does not include the cost of ~~purchase of~~ equipment to be owned or ~~utilized~~ used by the
30 eligible training provider.

(12) "Program services" means training and education specifically directed to the new jobs, including:

(a) all direct training costs, such as:

(i) program promotion;

(ii) instructor wages, per diem, and travel;

(iii) curriculum development and training materials;

(iv) lease of training equipment and training space;

(v) miscellaneous direct training costs;

(vi) administrative costs; and

(vii) assessment and testing;

(b) in-house or on-the-job training; and

(c) subcontracted services with eligible training providers. ~~(Terminates June 30, 2007--sec. 10, Ch. 567, L. 2003.)~~ (TERMINATES JUNE 30, 2009.)"

Section 2. Section 39-11-201, MCA, is amended to read:

"39-11-201. ~~(Temporary)~~ (TEMPORARY) Grant review committee -- appointment -- powers and duties -- rulemaking authority. (1) There is a seven-member ~~lean~~ grant review committee appointed by the governor, as follows:

(a) two representatives from the private sector representing economic development, ~~appointed by the governor~~, APPOINTED BY THE GOVERNOR;

(b) two representatives from the ~~business~~ COMMERCIAL BANKING community, ~~one appointed by the president of the senate and one appointed by the speaker of the house~~, ONE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE, one of whom serves on a local workforce investment board;

(c) one representative from ~~the governor's office~~, ~~appointed by the governor~~ a 2-year postsecondary institution, as defined in 20-9-706, APPOINTED BY THE GOVERNOR;

(d) one representative from the department of revenue, ~~appointed by the governor~~, APPOINTED BY THE GOVERNOR; and

(e) one representative from the department of labor and industry, ~~appointed by the governor~~, APPOINTED BY THE GOVERNOR.

(2) The Subject to appropriation by the legislature and 39-11-202(4)(d), the committee shall award training grants to a primary sector business qualified under 39-11-202 after a determination that the primary sector business:

- (a) has prospects for achieving commercial success and for creating new jobs in the state;
- (b) has prospects for collaboration between the public and private sectors of the state's economy;
- (c) has potential for commercial success related to the specific product, process, or business development methodology proposed; and
- (d) can provide matching funds; ~~and~~
- ~~———— (e) can be reasonably expected to provide an economic return within a reasonable period of time.~~

(3) A committee member may not personally apply for or receive a primary sector business workforce training grant. If an organization with which a member is affiliated applies for a grant, the member shall disclose the nature of the affiliation and, if the committee member is a board member or officer of the organization, may not participate in the decision of the committee regarding the grant application.

- (4) The committee shall adopt rules to:
- (a) provide for grant application procedures;
 - (b) develop procedures for awarding grants pursuant to the criteria provided in 39-11-202; and
 - (c) develop independent review and audit procedures to ensure that grants ~~made are~~ have been used for the purposes identified in the grant contracts.

(5) All decisions of the committee are final and are not subject to the contested case provisions of Title 2, chapter 4.

(6) The committee is allocated to the ~~office of economic development~~ department for administrative purposes only as provided in 2-15-121. ~~(Terminates June 30, 2007--sec. 10, Ch. 567, L. 2003.)~~ (TERMINATES JUNE 30, 2009.)"

Section 3. Section 39-11-202, MCA, is amended to read:

"39-11-202. ~~(Temporary)~~ (TEMPORARY) Primary sector business workforce training grants -- eligibility. (1) The Subject to appropriation by the legislature, the grant review committee provided for in 39-11-201 may award workforce training grants to primary sector businesses that provide education or skills-based training, through eligible training providers from the eligible training provider list, for employees in new jobs.

(2) To be eligible for a grant, an applicant shall demonstrate that at least 50% of the applicant's sales will be from outside of Montana or that the applicant is a manufacturing company with 50% of its sales from companies that have 50% of their sales outside of Montana and must meet at least one of the following criteria:

- (a) be a value-adding business as defined by the Montana board of investments;
- (b) demonstrate a significant positive economic impact to the region and state beyond the job creation involved;
- (c) provide a service or function that is essential to the locality or the state; or
- (d) be a for-profit or a nonprofit hospital or medical center providing a variety of medical services for the community or region.

(3) An applicant shall also provide a match of at least \$1 for every \$3 requested. The match:

- (a) must be from new, unexpended funds available at the time of application;
- (b) may include new loans and investments and expenditures for direct project-related costs such as new equipment and buildings. The committee may consider recent purchases of fixed assets directly related to the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities that have been made within 90 days after submission of the application may be considered eligible by the ~~department~~ committee.

(4) (a) Except as provided in subsection (4)(c), a grant provided under this section may not exceed \$5,000 for each full-time position for which an employee is being trained. A grant may be provided only for a new job that has an average weekly wage that meets or exceeds the lesser of Montana's current average ~~private~~ weekly wage, or the current average ~~private~~ weekly wage of the county in which the employees are to be principally employed, ~~or for jobs that will be principally located on a reservation, the current average weekly wage of the reservation.~~

(b) ~~The office of economic development~~ department may consider the value of employee benefits in calculating the expected annual wage.

(c) The committee may, in exceptional circumstances, consider a higher grant ceiling for jobs that will pay significantly higher wages and benefits if the need for higher training costs is documented in the application.

(d) A grant provided under this section ~~may not exceed an amount greater than the present value of expected incremental tax receipts, as described in 39-11-203, that are expected over the 10-year period immediately following the grant award. The committee shall consider the loan rate established by the board of investments pursuant to the Municipal Finance Consolidation Act of 1983 that is in effect at the time of the grant~~

1 ~~and the state personal income tax rates in effect or those rates scheduled to take effect in calculating the~~
2 ~~maximum grant amount~~ must be proportional to the number of jobs provided, the expected average annual wage
3 of all jobs provided, and the underlying economic indicators of the region where the majority of the jobs will be
4 created.

5 (5) A primary sector business workforce training program must involve at least 10 new jobs unless
6 unique circumstances are documented that indicate a significant, positive, secondary impact to the local
7 economy. Funding ceilings ~~will~~ must be determined by the availability of funding, the cost for each job, ~~and the~~
8 quality of the primary sector business proposal, and whether training will be provided in Montana, with
9 preference for training provided at 2-year community colleges, tribal colleges, or 2-year programs within the
10 Montana university system.

11 (6) The grant application, at a minimum, must contain:

12 (a) a business plan containing information that is sufficient for the committee to obtain an adequate
13 understanding of the business to be assisted, including the products or services offered, estimated market
14 potential, management experience of principals, current financial position, and details of the proposed venture.
15 In lieu of a business plan, the committee may consider a copy of the current loan application to entities such as
16 the Montana board of investments, the federal business and industry guarantee program, or the small business
17 administration.

18 (b) financial statements and projections for the 2 most recent years of operation and projections for each
19 of the 2 years following the grant, including but not limited to balance sheets, profit and loss statements, and
20 cash flow statements. A business operating for less than 2 years shall provide all available financial statements.

21 (c) a hiring and training plan, which must include:

22 (i) a breakdown of the jobs to be created or retained, including the number and type of jobs that are
23 full-time, part-time, skilled, semiskilled, or unskilled positions;

24 (ii) a timetable for creating the positions and the total number of employees to be hired;

25 (iii) an assurance that the business will comply with the equal opportunity and nondiscrimination laws;

26 (iv) procedures for outreach, recruitment, screening, training, and placement of employees;

27 (v) a description of the training curriculum and resources;

28 (vi) written commitments from any agency or organization participating in the implementation of the hiring
29 plan; and

30 (vii) a description of the type and method of training to be provided to employees, the starting wage and

wage to be paid after training for each position, the job benefits to be paid or provided, and any payment to eligible training providers.

(7) If the committee determines that an applicant meets the criteria established in this section and has complied with the applicable procedures and review processes established by the committee, the committee may award a primary sector business workforce development grant to the employer and authorize the disbursement of funds under contract to the primary sector business.

(8) (a) A contract with a grant recipient must contain provisions:

(i) certifying that the full amount of the grant already expended will be reimbursed in the event that the primary sector business ceases operation IN THE STATE OF MONTANA within ~~12 months from the time that the grant is awarded~~ contract period, which may be up to 2 years;

(ii) ~~requiring the employer receiving the grant to repay any shortfall in the personal income tax revenues to the state, as calculated in 39-11-203, that are the result of the company failing to meet the number of jobs or pay level of those jobs described in the final grant application. A shortfall in any fiscal year must be accessed against and paid by the company in the next fiscal year~~ specifying that the employer may receive grant funds over the contract period only upon documenting the creation of eligible jobs, the hiring of employees for the jobs, or the incurring of eligible training expenses; and

(iii) providing the department with annual reports and a final closeout report that documents the higher wages paid to an employee upon completion of the training.

(b) The contract must be signed by the person in the primary sector business who is assigned the duties and responsibilities for training and the overall success of the program and by the primary sector business's chief executive. ~~(Terminates June 30, 2007--sec. 10, Ch. 567, L. 2003.)~~ (TERMINATES JUNE 30, 2009.)"

SECTION 4. SECTION 10, CHAPTER 567, LAWS OF 2003, IS AMENDED TO READ:

"Section 10. Termination. [This act] terminates June 30, ~~2007~~ 2009."

NEW SECTION. **Section 5. Repealer.** ~~(1)~~ Sections 39-11-203 and 39-11-204, MCA, are repealed.

~~(2) Section 10, Chapter 567, Laws of 2003, is repealed.~~

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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